

REMARKS

Upon consideration of the above amendments and following remarks, reconsideration and allowance of this application are respectfully requested.

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 USC §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

Amended claims 1-22 are in this application.

At paragraph 3 of the outstanding Office Action of February 24, 2003 the Examiner objected to claim 16 because of informalities. Specifically, 'means' was inappropriately disclosed in a method claim. The 'means' phraseology has been removed from the method claim. Applicants therefore, respectfully request the objection to claim 16 be withdrawn.

At paragraph 4 of the outstanding Office Action of February 24, 2003 the Examiner objected to claim 22 because of informalities. Specifically, the word 'changing' was unclear. In accordance with the Examiner's suggestion, applicants replaced the word 'changing' with the word 'charging.' Applicants therefore, respectfully request the objection to claim 22 be withdrawn.

At paragraph 6 of the outstanding Office Action of February 24, 2003 the Examiner rejected claims 1 and 14-16 under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicants respectfully traverse the rejection.

The Examiner stated that in the present case the inventive concept in claims 1 and 14-16 only recite an abstract idea...that can be performed in the mind of the user or by use of pencil and paper and no specific technology. Independent claims 1 and 14-16 now recite, in part, “An information distributing method for distributing information subjected to billing in an information distributing system...” As amended, the inventive concept of claims 1 and 14-16 is performed by an information distributing system. Therefore, the inventive concept of the present invention does not only recite an abstract idea.

Applicants therefore, respectfully request that the rejection of claims 1 and 14-16 under 35 U.S.C. §101 be withdrawn.

At paragraph 9 of the outstanding Office Action of February 24, 2003 the Examiner rejected claims 1-22 under 35 U.S.C. 103(a) as being unpatentable over Rosenthal (U.S. Patent No. 6,148,301) in view of Christenson et al. (U.S. Patent No. 6,324,620). Applicants respectfully traverse the rejection.

Upon reviewing the portions of Rosenthal relied upon by the Examiner in the rejection of claim 1, it is clear that in Rosenthal the information provided is billed based on the number of times subscribers requested each document (column 6, lines 1-5). However, independent claim 1, as well as the remainder of the independent claims as amended now specifically recite that each amount of money billed is being determined independently for each time the information is distributed. Therefore, it is not the overall billing charge that changes based on a fixed price per download in the claimed invention as in Rosenthal. Rather the price

of each subsequent download is modified based upon the number of times the material has been previously downloaded. The price for the previous downloads does not change, and indeed has already been billed. In other words, the billing is done in incremental stages, it is done in real time (as the user accesses the information) and is independent for each time information is distributed. In contrast, Rosenthal teaches that the billing record is generated at the end of each month and is based upon the cumulative number of each document delivered (column 9, lines 5-17). Therefore, each time information is distributed the cost is dependent on the previous distribution of information. Applicants submit that the portions of Rosenthal relied upon by the Examiner fail to depict these features in the claimed invention.

Also, the Examiner does not appear to rely on Christenson to overcome the above-identified deficiencies of Rosenthal. Therefore, claim 1 is believed to be distinguishable from the applied combination of Rosenthal and Christenson.

For reasons similar to those described above with regard to amended independent claim 1, amended independent claims 14-16, 18, 20 and 22 are also believed to be distinguishable from Rosenthal in view of Christenson.

Further, claims 2-13, 17, 19 and 21 depend, either directly or indirectly, from one of amended independent claims 1, 14-16, 18, 20 and 22, and therefore are believed to be distinguishable from Rosenthal in view of Christenson for this reason alone.

Applicants therefore, respectfully request that the rejection of claims 1-22 under 35 U.S.C. §103(a) be withdrawn.

It is to be appreciated that the foregoing comments concerning the disclosures in the cited prior art represent the present opinions of the Applicants' undersigned attorney and, in

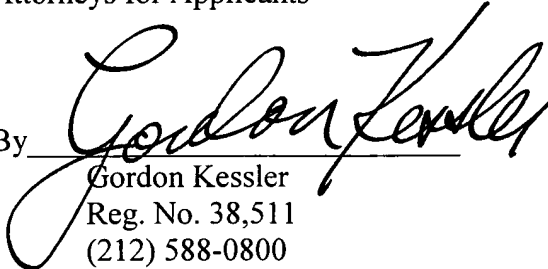
the event, that the Examiner disagrees with any such opinions, it is requested that the Examiner indicate where, in the reference or references, there is the basis for a contrary view.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,

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